

May 18, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Received & Inspected

MAY 31 2011

FCC Mail Room

Request for Review

RE: CC Docket No. 02-6 and CC Docket 96-45
Administrator's Decision on Appeal – Funding Year 2008-2009

Applicant Name: Fountain Fort Carson School District 8
Billed Entity Number: 142289
Form 471 Application Number: 596832
Funding Request Numbers: 1753813
USAC Correspondence Dated: April 01, 2011

This letter is an official request for the FCC to review the decision to rescind funding which had previously been approved for FRN 1753813 for the 2008-09 funding year by USAC.

The initial decision from USAC was dated November 16, 2010. The reason given for the decision was:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the service provider, Trillion Partners, Inc., participated in the preparation of the Form 470 which established the competitive bidding process for FRN 1753813. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

Fountain Fort Carson Appealed this decision on December 20, 2010 and USAC denied the appeal on April 1, 2010 and grouped it together with FRN 1647214. In that document, USAC indicated that "USAC denied your funding requests because it determined that your FCC Form 471 had unauthorized Service Provider involvement from a Service provider who participated in the competitive bidding process and was not authorized to order Telecommunications and other supported services on your behalf. Since you violated the FCC competitive bidding rules, USAC rescinded your funding request and sought

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recovery of any funds disbursed. In your appeal, you have not shown that USAC's determination was incorrect. Consequently, USAC denies your appeal"

The district can not find any link between the initial decision, the appeal, and the wording in the Appeal letter. Further, there is no reason for USAC to group FRN's 1647214 and 1753813 together since they were denied for two completely separate reasons, neither of which was brought up on the Decision on Appeal letter. It seems quite unfair that USAC can change their reason for the denial of funding in the middle of the appeal process.

The district did at no time discuss or share form 470 #491280000646302 with any service providers prior to the release of said form 470. The district did ask for some advice from a service provider currently under contract with the district regarding form 470 #710210000638402. Since that 470 was not used in this FRN, there is absolutely no rule violation.

Along with this letter we have included the following documents for clarification of the persons responsible to review this request:

Copy of Notification of Commitment Adjustment Letters
Copy of District Appeals
Copy of Administrator's Decision on Appeal
Letter of Agency for Etechco, Inc.

Sincerely,



Richard Van Sickle
Consultant for Fountain Fort Carson School District 8



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2008-2009

April 01, 2011

Richard Van Sickle
ETECHCO, Inc.
10 E. Jefferson Street
Colorado Springs, CO 80907

Re: Applicant Name: FOUNTAIN-FT CARSON SCH DIST 8
Billed Entity Number: 142289
Form 471 Application Number: 596832
Funding Request Number(s): 1647214, 1753813
Your Correspondence Dated: December 20, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2008 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1647214, 1753813
Decision on Appeal: **Denied**
Explanation:

- USAC denied your funding requests because it determined that your FCC Form 471 had unauthorized Service Provider involvement from a Service Provider who participated in the competitive bidding process and was not authorized to order Telecommunications and other supported services on your behalf. Since you violated the FCC competitive bidding rules, USAC rescinded your funding request and sought recovery of any funds disbursed. In your appeal, you have not shown that USAC's determination was incorrect. Consequently, USAC denies your appeal.

FCC rules require that FCC Forms 470 and 471 be signed by a person authorized to order Telecommunications and other supported services for eligible entities and certify under oath to all the required certifications. See 47 C.F.R. 54.504(b)(2),

47 C.F.R. 54.504(c)(1). Consultants or other signers who are not employees of the billed entity must have a letter of agency from the applicant affirming that they are authorized to represent the applicant. Service providers who participated in the competitive bidding process for the services sought should not be involved in the preparation and certification/signing of the FCC Form 471 without the applicant's authorization. Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. See 48 C.F.R. sec. 9.505(a), (b). The FCC's Fifth Report and Order requires recovery of all funds disbursed for any funding request in which the competitive bidding rules have been violated. See Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15815, 15816, FCC 04-190 para. 21 (rel. Aug. 13, 2004).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Dave Roudebush

December 20, 2010

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
100 S. Jefferson Road
P.O. Box 902
Whippany, NJ 07981

This is an official letter of appeal of the Notification of Commitment Adjustment Letter which was dated on November 16, 2010. This letter rescinded funding from funding year 2008 for FRN 1753813.

Billed Entity Name – Fountain Fort Carson School District 8
Form 471 Application Number – 596832
Billed Entity Number – 142289
FCC Registration Number – 0013708243

In the decision from USAC the following reason was given for the decision to rescind funding:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the service provider, Trillion Partners, Inc., participated in the preparation of the Form 470 which established the competitive bidding process for FRN 1753813. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

Explanation of Appeal

The service provider did not in any way participate in the preparation of the form 470. The form was prepared solely by the district's consultant, Etechco, Inc. with input from the district.

The district did have a current contract with Trillion and therefore did have a relationship with the service provider for current services. During the course of the preparation of the 470, a draft was sent to the district and the service provider. The message made it very clear that there was an expectation of competitive bidding "prospective bidders will know that there is a current contract in place". The answer (see attached message) from the service provider was "Looks good, Rick" which does not offer any suggestions for changes or input.

Sincerely,

Richard Van Sickle
Consultant for Fountain Fort Carson School District
10 E. Jefferson Street
Colorado Springs, CO 80907

719-216-2012
etechco@comcast.net



Notification of Commitment Adjustment Letter

Funding Year 2008: July 1, 2008 - June 30, 2009

November 16, 2010

Richard Van Sickle

FOUNTAIN-FT CARSON SCH DIST 8

10 E. Jefferson

Colorado Springs, CO 80907 1703

Re: Form 471 Application Number:	596832
Funding Year:	2008
Applicant's Form Identifier:	FTN_470_y11
Billed Entity Number:	142289
FCC Registration Number:	0013708243
SPIN:	143025872
Service Provider Name:	Trillion Partners, Inc
Service Provider Contact Person:	Virginia Bryant

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Virginia Bryant
Trillion Partners, Inc

**Funding Commitment Adjustment Report for
Form 471 Application Number: 596832**

Funding Request Number:	1753813
Services Ordered:	INTERNET ACCESS
SPIN:	143025872
Service Provider Name:	Trillion Partners, Inc
Contract Number:	NA
Billing Account Number:	7193821300
Site Identifier:	142289
Original Funding Commitment:	\$39,963.98
Commitment Adjustment Amount:	\$39,963.98
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$36,203.93
Funds to be Recovered from Applicant:	\$36,203.93

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the service provider, Trillion Partners, Inc., participated in the preparation of the Form 470 which established the competitive bidding process for FRN 1753813. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

**E-Rate Consultant Letter of Agency
Fiscal Year 2010 – 2011**

To Whom It May Concern:

Fountain Fort Carson School District 8 (hereinafter, *Applicant*) hereby authorizes ETECHCO, INC. and its authorized representatives (hereinafter, *Consultant*) to discuss, prepare, and submit all appropriate E-rate forms and to interact with the Schools and Libraries Division of the Universal Service Administrative Company on its behalf. This agreement is valid for any E-Rate related task that occurs while this agreement is in force, regardless of E-Rate funding cycle. This letter of agency shall remain effective through 6/30/2011 unless superseded or terminated sooner, with thirty written days notice, by either party.

This letter of agency authorizes Consultant to interact with the Schools and Libraries Division of the Universal Service Administrative Company, as well as eligible service providers, on behalf of Applicant. It authorizes all necessary and appropriate E-Rate application activities (such as Solicitation of bids from prospective service providers) for the Funding Year described above, as well as follow-up actions, as needed, relating to the prior two Funding Years. It authorizes preparation and submission of all appropriate forms (470, 471, 486, 472, 500, Letters of Appeal, and so on), and correspondence with Program Integrity Assurance (PIA) and SLD audit personnel. It applies to all categories of service (Telecommunications, Internet Access, Internal Connections, and Basic Maintenance of Internal Connections) that are eligible for the E-Rate discount program.

In preparing application materials and other responses on behalf of Applicant, it is understood that Consultant shall necessarily rely on the accuracy of all relevant information provided by Applicant (including the Applicant's employees, contractors, service providers, and other authorized representatives) including, but not limited to: enrollment data, free reduced lunch eligibility, service provider agreements, compliance with the Child Internet Protection Act (CIPA) and local competitive bidding regulations and practices. Consultant agrees to exercise reasonable diligence in documenting and verifying such information. It is further understood that the responsibility for E-Rate document certifications and for the veracity of certification statements remains with Applicant, regardless of the method used to certify such statements (such as paper signatures versus electronic submission using a PIN).

Applicant understands that, in submitting E-Rate forms on its behalf, Consultant is being authorized and directed to make certain material certifications on behalf of Applicant.

In executing this Letter of Agency, the authorized signer for Applicant, whose name and title appear below, hereby makes the following certifications:

(a) I certify that Applicant's school(s) is/are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801, (18) and (38); that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million dollars.

(b) I certify that Applicant's schools has/have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Applicant is passing through the non-discounted charges for the E-Rate services requested in conjunction with this Letter of Agency, that the entities represented by Applicant have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.

(c) I certify that our school(s) is/are covered by a technology plan(s) that is/are written, that covers all 12 months of the funding year, and that had/have been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is/are written at the following level(s):

☐ an individual technology plan for using the services requested in this application; and/or
☒ a higher-level technology plan(s) for using the services requested in this application; or
☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

(d) I certify that the services the school, library or district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500 (et seq.).

(e) I certify that our school(s) had/have complied with, and will continue to comply with, all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

(f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

(g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program. I acknowledge that the Consultant's good faith efforts to maintain electronic archival backup copies of such records shall not in any way reduce the Applicant's obligation to maintain its own records.

(h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

(i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

(j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. 54.506Cc).

(k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

(l) I certify that Consultant is authorized to perform electronic certification of forms on behalf of Applicant, upon being provided with Applicant's PIN number, and that I understand that such authorized electronic certification shall be interpreted as legally equivalent to my own hand-written signature on a paper form.

(m) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to Consultant for E-rate submission is true.

Consultant

ETECHCO, INC.

Authorized Signature



Printed Name

Richard Van Sickle

Title:

President

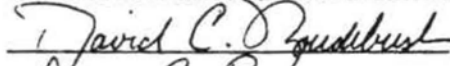
Date:

May 22, 2010

Applicant

Fountain Fort Carson School District 8

Authorized Signature



Printed Name

DAVID C. RAUDENBUSH

Title:

ASST. SUPT.

Date:

5/21/10